

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



MICHAEL BERNARD SULLIVAN)
BEY,)

Plaintiff,)

v.)

1:14CV1060

UNITED STATES FEDERAL)
DISTRICT COURT MIDDLE)
DISTRICT OF NORTH CAROLINA,)

Defendant(s).)

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a prisoner of the State of North Carolina, submitted a document alleging violations of his civil rights. Therefore, the Court treated the filing as a civil rights action pursuant to 42 U.S.C. § 1983. The form of the Complaint is such that serious flaws make it impossible to further process the Complaint. The problems are:

1. The filing fee was not received nor was a proper affidavit to proceed *in forma pauperis* submitted, with sufficient information completed or signed by Plaintiff, to permit review.
2. The Complaint is not on forms prescribed for use by this Court, nor is the information requested by such forms and necessary to process the Complaint pursuant to 28 U.S.C. § 1915A contained in Plaintiff's submission. See LR 7.1(e).
3. Plaintiff does not name proper defendants or given sufficient addresses for them to be served. Plaintiff must name the persons who are actually responsible for the alleged violations of his constitutional rights.

4. Plaintiff does not appear to state any proper claim for relief. At least in part, he attacks his state court criminal convictions. This is not proper in a civil rights action and Plaintiff would instead have to proceed by filing a petition for a writ of habeas corpus under 28 U.S.C. § 2254 in order to attack his convictions. Also, Plaintiff appears to base all of his claims on his alleged status as a “Moorish American.” This Court routinely rejects such claims. Plaintiff cannot seek damages or avoid criminal liability based on his alleged ethnic or national origin.

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiff filing a new complaint or petition, on the proper forms, which corrects the defects of the present Complaint. To further aid Plaintiff, the Clerk is instructed to send Plaintiff new § 1983 and § 2254 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send Plaintiff § 1983 and § 2254 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new complaint or petition, on the proper forms, which corrects the defects cited above.

This, the 28th day of December, 2014.



L. Patrick Auld
United States Magistrate Judge